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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

Estate of LONNIE LAMONT ASHLOCK, Deceased.	
GABRIEL ASHLOCK, as Administrator, etc., Petitioner and Respondent, v. STACEY CARLSON, Objector and Appellant.	F076941 (Super. Ct. No. 445230)
Estate of LONNIE LAMONT ASHLOCK, Deceased.	
STACEY CARLSON, as Executor, etc., Petitioner and Appellant, v. GABRIEL ASHLOCK, Objector and Respondent.	(Super. Ct. No. 445304)
GABRIEL ASHLOCK, Plaintiff and Respondent, v. STACEY CARLSON, as Trustee, etc., Defendant and Appellant.	(Super. Ct. No. 445360)

OPINION

APPEAL from an order of the Superior Court of Stanislaus County. Timothy W. Salter, Judge.

Crabtree Schmidt and Robert W. Crabtree for Objector and Appellant, Petitioner and Appellant, and Defendant and Appellant.

Schofield & Associates, Louis F. Schofield; Curtis Legal Group, and William Broderick-Villa for Petitioner and Respondent, Objector and Respondent, and Plaintiff and Respondent.

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This appeal concerns the recovery of attorney fees in a probate matter. Based on the lodestar method and a multiplier of 1.5, the recoverable fees were found to be in excess of $1.8 million. The trial court offered little explanation for the multiplier beyond stating, quite accurately, "that this was not a 'run of the mill' probate case … but rather a very complex case, both factually and legally."

The underlying dispute has been the subject of writ petitions and a prior appeal of an interim judgment. The principal litigants are Stacey Carlson and Gabriel Ashlock, both of whom claimed entitlement to the estate of Gabriel's deceased father. The stakes were high, as the prevailing party stood to inherit millions of dollars. In a nonpublished opinion, this court affirmed findings made in favor of Gabriel with regard to a trust dispute, a will contest, and claims against Stacey for breach of fiduciary duty and financial abuse of a dependent adult. (*Estate of Ashlock* (Mar. 14, 2019, F074969) (*Ashlock I*).) The award of attorney fees rests upon those findings.[1]

Stacey alleges Gabriel waived the right to recover attorney fees by not filing a timely motion therefor. In the alternative, she contends the trial court erred by ordering extensions of the purported filing deadline. Her secondary position concerns the scope and amount of the award. She also complains of the trial court's refusal to issue a statement of decision. We affirm the challenged order.

[1]As in our prior opinion, we follow the litigants' convention of referring to parties by their first names. Likewise, all undesignated statutory references are to the Probate Code.

FACTUAL AND PROCEDURAL HISTORY

We incorporate by reference the factual and procedural background in *Ashlock I* and take judicial notice of the disposition therein. To briefly recapitulate, decedent Lonnie Ashlock passed away in 2013. Soon thereafter, Gabriel and Stacey became embroiled in litigation over Lonnie's estate. Stacey petitioned to admit into probate a will signed by Lonnie in 2009. Gabriel opposed the petition on numerous grounds, including the fact Stacey had drafted the will and named herself the sole beneficiary. Gabriel also filed a petition challenging the validity of multiple trust instruments, which Stacey had drafted and executed on Lonnie's behalf in 2013.

On October 25, 2016, following a 53-day bench trial, the trial court issued its first interim judgment. Gabriel was declared the prevailing party and found to be "entitled to his attorneys fees and costs as provided by law." Issues of damages and remedies had been bifurcated from questions of liability, and the bifurcated issues remained to be determined. On November 1, 2016, Gabriel served a notice of entry of judgment. Stacey filed a motion for new trial, which was denied on December 22, 2016.

On January 10, 2017, the parties attended a hearing on a petition regarding Lonnie's 1993 will.[2] Various other pending matters were discussed, including an objection filed by Stacey to Gabriel's "Initial Administrator Report." The trial court stated its anticipation of a motion by Gabriel to recover his attorney fees, which it scheduled to be heard on February 24, 2017.

On February 10, 2017, during a law and motion hearing on other matters, Gabriel's counsel requested the hearing on attorney fees be continued to February 28, 2017. The continuance was granted without objection. On the date of the continued hearing, Gabriel's counsel stated,

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[2]As explained in *Ashlock I*, Lonnie's father, Larry Ashlock, petitioned to have his son's 1993 will admitted to probate. Larry sought to administer the estate pursuant to the same instrument. The trial court apparently found the 1993 will to be valid but otherwise denied Larry's petition, concluding "Gabriel Ashlock has priority to be appointed executor of the will."

> "[W]e've had our hands full in responding to various actions taken by [Stacey] within the last—since we were here last time. These included in the Court of Appeals case, they included in the Federal District Court case. It included in writs of attachment and levies …. [¶] [W]e were supposed to do the motion concerning the foreclosure, we were supposed to do a motion concerning the request for damages and a motion concerning attorney's fees. [¶] We simply couldn't get this done in time, and so we're asking this Court for additional time to respond."

The trial court ordered a nine-week continuance.

On May 2, 2017, the parties and the trial court addressed four pending motions/claims, none of which pertained to Gabriel's attorney fees in *Ashlock I*. On June 9, 2017, there was a hearing on Gabriel's motion to disqualify Stacey's desired appellate counsel in *Ashlock I*.[3] During the proceeding, the trial court made the following statements:

> "One other matter I want to address this morning is [Gabriel's] brief on damages, and Mr. Crabtree filed an objection to that. [¶] … [¶] But I think it makes more sense to take these things one step at a time, and I think that the first one that I would like to see tackled is the issue of attorney's fees. I did order [Gabriel]—that [Gabriel] was entitled to an award of attorney fees. … I've never seen any declaration or an itemization of what your services were in taking this matter through trial and what your claim is for attorney's fees. [¶] So it seems to me that that should be the next order of business, and what I would like to do this morning is set a date out in the future when we could have a hearing on that, and then also include a date prior to that when you will have your declarations and itemization of attorney's fees you're claiming, giving [Stacey] an opportunity to file whatever they want to in response to that."

Attorney Schofield responded:

> "[F]rankly, it's confusing to Mr. Broderick-Villa and myself if this is the time to make that motion …. And let me explain why. [¶] This is an interim judgment that we have. We can do a motion for attorney's fees based on the work that was done to the—through the time of the interim judgment. But the Court has bifurcated two other issues here …

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[3]The motion was granted, which is why Stacey continues to be represented on appeal by her trial attorney, Robert Crabtree. Although Gabriel hired separate counsel for the *Ashlock I* appeal, he is represented in this appeal by his trial attorneys, William Broderick-Villa and Louis F. Schofield.

> [including] the nature and extent of the damages. [¶] So what is confusing to us is are we—are we jumping—are we putting the horse—or the cart ahead of the horse here, and that's why we haven't done it."

The trial court replied, "[T]hat is what I think would be best. And then at the time I make a decision on that, we can decide what the next unresolved issue is that I will tackle." Gabriel's counsel then stated his intention to seek attorney fees incurred through October 31, 2016. Stacey's counsel said, "Well, I'm not going to agree to anything, because I don't think the proper procedure is being followed with respect to attorney's fees, anyway. But that will be brought up when a proper motion is made." The trial court rescheduled the motion hearing for August 18, 2017.

On July 27, 2017, Gabriel filed his motion for attorney fees. In a supporting declaration, attorney Broderick-Villa claimed he and other people at his law firm, Curtis Legal Group, PLC, had collectively worked 3,549 hours on the case over a three-year period. Most of the work was attributed to Broderick-Villa, which he valued in the range of $225 to $275 per hour. Slightly less than 500 hours were attributed to paralegals, a law clerk, and other attorneys, whose services were valued at $175 to $315 per hour for the attorneys and $115 per hour for nonattorneys. Attorney Schofield, whom Gabriel had retained as cocounsel, attested to providing approximately $434,518 worth of services at an hourly rate of $395, i.e., approximately 1,100 hours of attorney time. The motion also requested over $148,000 in fees paid to a court-appointed special administrator of the estate, plus a multiplier of 2.0, for a total award of $2,885,258.20.

Stacey filed an ex parte application to continue the motion hearing, which was granted. The hearing date was rescheduled to September 26, 2017. She then filed her opposition papers, which alleged Gabriel's motion was untimely. The opposition also challenged the amount of recoverable fees.

On September 25, 2017, the trial court issued a tentative ruling. The parties were advised of the court's intention to award a subtotal of approximately $1.3 million, minus amounts requested in connection with two specific matters. The request for recovery of

the special administrator's fees was denied, and the trial court decided to use a "Lodestar multiplier of 1.5" instead of Gabriel's proposed multiplier of 2.0.

When the motion was heard the following day, Stacey's counsel did not address the issue of the multiplier. Counsel focused on the waiver argument, insisting the motion was untimely. The trial court responded as follows:

> "I made a series of orders on virtually every hearing sort of kicking the can down the road. Maybe I shouldn't have done that, but I did do that. I wanted to try to keep things in front of us so we could focus on what still needed to be done. [¶] So there were a series of orders continuing that matter, so for that reason, I don't think the … statutory provisions you cited do apply."

Stacey's counsel also argued against awarding fees for services not directly related to the "trust matter."

The trial court adopted its tentative ruling and ordered Gabriel's attorneys to file a "further declaration" itemizing all fees for certain matters not litigated in *Ashlock I*, which it planned to subtract from the award. Stacey was told she could file "a responsive declaration, setting forth any objections to [Gabriel's] further declaration." Gabriel followed the trial court's instructions. Stacey, however, did not submit a responsive declaration. Instead, she filed a brief setting forth arguments previously asserted in her initial opposition to the motion. Her brief included a request for a statement of decision.

On November 2, 2017, the trial court issued a minute order. The order states, in part, "The Court respectfully declines to issue a Statement of Decision on this matter, because one is not required." Based on the supplemental declarations, the court disallowed $4,887.50 of extraneous fees. The trial court also determined the respective lodestar amounts for work performed by Broderick-Villa's law firm and by attorney Schofield, but those figures were recalculated in an amended order issued on November 30, 2017.

The reasonable value of services rendered by Broderick-Villa's law firm was found to be $827,380.40. The reasonable value of services rendered by attorney

Schofield was found to be $393,714.92. This translated to a "Lodestar figure of $1,221,095.30." The trial court then applied a multiplier of 1.5, resulting in a subtotal of $1,831,642.90. Attorney Schofield's recoverable fees for travel time, which the trial court segregated from the multiplier calculation, were found to be $36,340. The total award was $1,867,982.90.

DISCUSSION

I. Standard of Review

"Whether attorney fees may be awarded is a question of law, which we review de novo." (*Dzwonkowski v. Spinella* (2011) 200 Cal.App.4th 930, 934.) To the extent our analysis requires statutory interpretation, the de novo standard also applies. (*Ramon v. County of Santa Clara* (2009) 173 Cal.App.4th 915, 920.) We review the amount of an attorney fees award for abuse of discretion. (*Dzwonkowski*, *supra*, at p. 934.)

"An attorney who prosecutes an appeal from an order addressed to the trial court's sound discretion is confronted with more than a daunting task." (*Estate of Gilkison* (1998) 65 Cal.App.4th 1443, 1448.) """A judgment or order of the lower court is *presumed correct*. All intendments and presumptions are indulged to support it on matters as to which the record is silent, and error must be affirmatively shown. This is not only a general principle of appellate practice but an ingredient of the constitutional doctrine of reversible error." [Citations.]' [Citation.]" (*Id*. at p. 1449.)

II. Procedural Issues

Stacey argues Gabriel waived his rights by failing to comply with rule 3.1702 of the California Rules of Court (rule 3.1702). Rule 3.1702(b)(1) provides, "A notice of motion to claim attorney's fees for services up to and including the rendition of judgment in the trial court … must be served and filed within the time for filing a notice of appeal under rules 8.104 [the earlier of 60 days after service of the notice of entry of judgment or 180 days after entry of judgment] and 8.108 [extending the time limitations] in an unlimited civil case." Because the interim judgment in *Ashlock I* was entered on

October 25, 2016, Stacey reasons the motion for attorney fees was due within 180 days, i.e., no later than April 23, 2017. Since Gabriel did not file his motion until July 27, 2017, she contends the motion was untimely.

Gabriel disagrees with Stacey's analysis. He points to rule 3.1702(a), which limits the applicability of the rule to "civil cases [involving] claims for statutory attorney's fees and claims for attorney's fees provided for in a contract." According to Gabriel, probate actions are not "civil cases," at least not for purposes of rule 3.1702, because probate matters are "governed under different precepts."

Stacey responds by citing section 1000: "Except to the extent that this code provides applicable rules, the rules of practice applicable to civil actions … apply to, and constitute the rules of practice in, proceedings under this code." (*Id*., subd. (a).) Stacey further notes the Probate Code is silent with regard to the timing of a postjudgment motion for attorney fees. Therefore, she contends such motions are necessarily governed by rule 3.1702.

Although Gabriel fails to cite authority for his position, the case law is on his side. (*Hollaway v. Edwards* (1998) 68 Cal.App.4th 94, 97–99 (*Hollaway*); see *Sanabria v. Embrey* (2001) 92 Cal.App.4th 422, 427 [citing *Hollaway*, *supra*, at p. 98]; 7 Witkin, Cal. Procedure (5th ed. 2008) Judgment, § 301, p. 898; Ross & Cohen, Cal. Practice Guide: Probate (The Rutter Group 2018) ¶ 16:342.5, p. 16–101.) In *Hollaway*, Division Three of the Fourth District Court of Appeal held that former rule 870.2 of the California Rules of Court (former rule 870.2) does not apply to the recovery of attorney fees in probate cases. Former rule 870.2 was renumbered as rule 3.1702 in 2007, and subdivisions (a) and (b) of the former rule are substantively identical to subdivisions (a) and (b)(1) of the current rule. (*Robert J. v. Catherine D.* (2009) 171 Cal.App.4th 1500, 1505, fn. 3; *Hollaway*, *supra*, at p. 97, fn. 2.)

The parties in *Hollaway* made arguments similar to those of Stacey and Gabriel. The appellant relied on the purported interplay between section 1000 and former rule

870.2(a) to argue the respondent's attorney fees award was subject to reversal for untimeliness. (*Hollaway*, *supra*, 68 Cal.App.4th at pp. 97–98.) Consistent with Gabriel's rationale, the appellate court said "attorney fees deriving from probate court litigation are subject to concerns sufficiently unique, we believe, to distinguish them from fees generated in ordinary civil litigation.… [¶] … We are loath to circumscribe the probate court's discretion by importing California Rules of Court, [former] rule 870.2's strict time limits." (*Id*. at pp. 98, 99.)

Were we not inclined to follow *Hollaway*, Stacey would need to demonstrate error under rule 3.1702(d), which gives trial courts discretion to extend the filing deadlines of rule 3.1702(b)(1) "[f]or good cause." Stacey argues the trial court was incapable of acting sua sponte and could only exercise its discretion upon a specific request and articulation of good cause by Gabriel. The argument is unconvincing, as trial courts "have inherent authority to control their own calendars and dockets." (*Walker v. Superior Court* (1991) 53 Cal.3d 257, 267; cf. *People v. Santamaria* (1991) 229 Cal.App.3d 269, 277 [for good cause, trial court can order trial continuance on its own motion].)

"A litigant faces a steep uphill battle in seeking to reverse a court's finding of 'good cause' for an extension of time." (*Robinson v. U-Haul Co. of California* (2016) 4 Cal.App.5th 304, 326.) In the context of rule 3.1702(d), "we should pay special deference to the trial court's view, which was informed by its personal interactions with counsel." (*Id*. at p. 327.) Furthermore, the trial court may order an extension even after the deadlines of rule 3.1702(b)(1) have passed. (*Robinson*, at p. 326; *Lewow v. Surfside III Condominium Owners Assn., Inc*. (2012) 203 Cal.App.4th 128, 135.)

Gabriel's attorneys claimed to have been overwhelmed by pending matters in the same consolidated action, and the trial court was in the best position to assess their excuse. The attorneys later expressed confusion over the appropriate timing of the motion, and "[c]ounsel's 'honest mistake of law' may constitute good cause under rule

3.1702(d) …." (*Robinson v. U-Haul Co. of California*, *supra*, 4 Cal.App.5th at p. 328.) The trial court believed deferring the motion would best further the orderly administration of justice in the case, which was probably alone sufficient to establish good cause for the continuances. Given the circumstances, its extension of the alleged filing deadline was not "'so irrational or arbitrary that no reasonable person could agree with it.'" (See *Sargon Enterprises, Inc. v. University of Southern California* (2012) 55 Cal.4th 747, 773 [discussing the abuse of discretion standard].)

Stacey's claim also fails for lack of prejudice. She concedes the time limits in rule 3.1702 are not jurisdictional. Gabriel's entitlement to attorney fees was adjudicated in *Ashlock I*, so there was no element of surprise with regard to the motion. Stacey implies she was lulled into a false sense of security, arguing there was a point where she could "reasonably expect the motion would never be filed," but the record does not support her contention. More importantly, she fails to explain how a more favorable outcome might have been achieved if the motion had been filed and ruled upon at an earlier time. We thus reject her arguments for reversal.

Next, we consider the absence of a statement of decision. "A trial court is not required to issue a statement of decision for an attorney fee award." (*In re Marriage of Falcone & Fyke* (2012) 203 Cal.App.4th 964, 981; accord, *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140 (*Ketchum*); *Stratton v. Beck* (2018) 30 Cal.App.5th 901, 915.) Nevertheless, Stacey argues the trial court committed reversible error by denying her request for such a statement.

Stacey relies on the following excerpt from *Ketchum*:

> "The superior court was not required to issue a statement of decision with regard to the fee award. [Citation.] Moreover, although [the appellant] opposed the motion for attorney fees, he did not request a statement of decision with specific findings." (*Ketchum*, *supra*, 24 Cal.4th at p. 1140.)

Based on this language, we are urged to hold that a statement of decision on an attorney fees motion is mandatory upon the request of a party. The same argument was

considered and rejected in *In re Marriage of Feldman* (2007) 153 Cal.App.4th 1470, 1496–1497. Like the appellate panel in *Feldman*, "we find no basis in statute or case law for a rule requiring the trial court to exercise its discretion to issue a statement of decision in instances where Code of Civil Procedure section 632 does not require it." (*Id.* at p. 1497.)

In *Ketchum*, the appellant's failure to request a statement of decision was noted to underscore the following principle: "'It is the burden of the party challenging the fee award on appeal to provide an adequate record to assess error.'" (*Ketchum*, *supra*, 24 Cal.4th at pp. 1140–1141.) Stacey claims she "tried to create an adequate record, but the trial court refused to let her." In reality, she squandered the opportunity to make a detailed record at the motion hearing and gambled on the trial court indulging her request for a statement of decision.

The trial court issued a tentative ruling the day before the hearing. Stacey's counsel acknowledged it while arguing her opposition. Therefore, she and her attorney knew of the court's intention to accept Gabriel's evidence and arguments regarding the reasonable value of services rendered in *Ashlock I* and to enhance the award by a multiplier of 1.5. Counsel could have addressed those issues during the hearing, but he chose to focus on the waiver argument.

We conclude the trial court was not obligated to grant Stacey's request for a statement of decision. "The absence of a statement of decision [in connection with a motion ruling] does not affect the standard of review. We presume that the court's order is supported by the record; if there is substantial evidence in the record to support the court's implied finding[s] of fact, the factual finding[s] will be upheld." (*Higdon v. Superior Court* (1991) 227 Cal.App.3d 1667, 1671.)

III. Scope of Recoverable Fees

A. Trust Petition

As in *Ashlock I*, our use of the term "trust petition" encompasses all matters associated with Gabriel's petition to invalidate the 2013 trusts, including the legitimacy of alleged partnerships between Lonnie and Stacey. The trust petition asserted claims against Stacey for financial abuse of a dependent adult (Welf. & Inst. Code, § 15610.30, subd. (a)) and breach of fiduciary duty. Gabriel prevailed on those claims and succeeded in invalidating the trusts pursuant to sections 4264 and 21380.

Stacey claims the trial court was powerless to award attorney fees against her in a personal capacity. She cites *Pizarro v. Reynoso* (2017) 10 Cal.App.5th 172, which held a probate court's equitable powers over a trust include "the power to charge attorney fees and costs against a beneficiary's share of the trust if that beneficiary, in bad faith, brings an unfounded proceeding against the trust," but not the power to impose personal liability for such fees and costs. (*Id.* at p. 183.) The case is wholly inapposite.

Nowhere in the trial court's prior statement of decision or interim judgment did it purport to award attorney fees under its equitable powers over a trust. As discussed in *Ashlock I*, Stacey is liable for attorney fees pursuant to sections 859, 4231.5, subdivision (c), and Welfare and Institutions Code section 15657.5, subdivision (a). In addition, the trial court found she "violated [section] 21380" by creating the 2013 trusts. Accordingly, pursuant to section 21380, subdivision (d), she must "bear all costs of the proceeding, including reasonable attorney's fees." For these reasons, we reject her arguments regarding fees related to the trust petition.

B. Will Contest

In her opposition below, Stacey argued former section 21350, which governed the validity of the 2009 will, did not provide for the recovery of attorney fees. She claimed the trial court "got its wires crossed" by relying on the current law, section 21380. In his moving papers and at the motion hearing, Gabriel noted the attorney fees provision now found at section 21380, subdivision (d), previously appeared in former section 21351,

subdivision (d). Stacey has copied and pasted large portions of her opposition memorandum into her briefing on appeal, including the remark about the trial court getting its "wires crossed," but she has added a new argument regarding former section 21351. We disagree with her proposed statutory construction.

The current law, section 21380, provides in relevant part:

> "(a) A provision of an instrument making a donative transfer to any of the following persons is presumed to be the product of fraud or undue influence:
>
> "(1) The person who drafted the instrument.
>
> "(2) A person who transcribed the instrument or caused it to be transcribed and who was in a fiduciary relationship with the transferor when the instrument was transcribed. [¶] … [¶]
>
> "(b) The presumption created by this section is a presumption affecting the burden of proof. The presumption may be rebutted by proving, by clear and convincing evidence, that the donative transfer was not the product of fraud or undue influence.
>
> "(c) Notwithstanding subdivision (b), with respect to a donative transfer to the person who drafted the donative instrument …, the presumption created by this section is conclusive.
>
> "(d) If a beneficiary is unsuccessful in rebutting the presumption, the beneficiary shall bear all costs of the proceeding, including reasonable attorney's fees."

The pertinent language of former section 21350 is as follows:

> "(a) Except as provided in [former] Section 21351, no provision, or provisions, of any instrument shall be valid to make any donative transfer to any of the following:
>
> "(1) The person who drafted the instrument. [¶] … [¶]
>
> "(4) Any person who has a fiduciary relationship with the transferor, including, but not limited to, a conservator or trustee, who transcribes the instrument or causes it to be transcribed." (Former § 21350, as amended by Stats. 2003, ch. 444, § 1.)

Under the current statutory scheme, exceptions to the presumption of invalidity are found in section 21382, which reads: "Section 21380 does not apply to any of the following instruments or transfers: [¶] (a) A donative transfer to a person who is related by blood or affinity, within the fourth degree, to the transferor or is the cohabitant of the transferor." Previously, these exceptions were identified in former section 21351.

"Subdivisions (a), (b) and (c) of [former] section 21351 except from invalidity, respectively, transfers to relatives and cohabitants of the transferor, transfer instruments reviewed by an independent attorney who counsels the transferor and executes a specified certificate, and transfers approved by the court on petition of a conservator. Subdivision (d) of [former] section 21351 permits a transferee other than the instrument's drafter [citation] to rebut [former] section 21350's presumption of disqualification …." (*Rice v. Clark* (2002) 28 Cal.4th 89, 97.) Subdivision (d) also provided for the recovery of attorney fees. (Former § 21351, subd. (d), as amended by Stats. 2002, ch. 412, § 1.)

The issue before us requires interpretation of former section 21351, subdivisions (d) and (e)(1), which read:

> "(d) [Section 21350 does not apply if] [t]he court determines, upon clear and convincing evidence, … that the transfer was not the product of fraud, menace, duress, or undue influence. If the court finds that the transfer was the product of fraud, menace, duress, or undue influence, the disqualified person shall bear all costs of the proceeding, including reasonable attorney's fees.
>
> "(e) Subdivision (d) shall apply only to the following instruments:
>
> "(1) Any instrument other than one making a transfer to a person described in paragraph (1) of subdivision (a) of Section 21350 [i.e., the person who drafted the instrument]."

Stacey contends the quoted provisions limit recovery of attorney fees to situations where a donative instrument is found invalid under former section 21350 for reasons other than the prohibition against drafting the instrument. When read mechanically and in isolation, the provisions are admittedly susceptible of such an interpretation. However, "a statute 'must be given a reasonable and common sense interpretation consistent with

the apparent purpose and intent of the lawmakers, practical rather than technical in nature, which upon application will result in wise policy rather than mischief or absurdity.'" (*Welch v. Oakland Unified School Dist*. (2001) 91 Cal.App.4th 1421, 1428.) Put differently, statutory interpretation must avoid absurd results not intended by the Legislature. (*Commission on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal.4th 278, 290.)

Former sections 21350 through 21356 were enacted "in response to reports that an Orange County attorney who represented a large number of [residents of a retirement community] had drafted numerous wills and trusts under which he was a major or exclusive beneficiary, and had abused his position as trustee or conservator in many cases to benefit himself or his law partners." (*Rice v. Clark, supra*, 28 Cal.4th at p. 97.) Former section 21350 identified seven categories of persons who were disqualified as recipients of donative transfers made via testamentary instruments, and former section 21351 created a presumption such transfers were the product of fraud, duress, menace, or undue influence. (*Bernard v. Foley* (2006) 39 Cal.4th 794, 799–800.) Former section 21351, subdivision (e)(1) has been interpreted to mean the presumption is irrebuttable against the drafter of such instruments, but no case has ever construed it in the manner proposed by Stacey with regard to attorney fees. (See, e.g., *Rice* at pp. 97–98 [interpreting the predecessor provision, subd. (e)(B)]; *Osornio v. Weingarten* (2004) 124 Cal.App.4th 304, 318, fn. 11.)

A litigant seeking to invalidate a donative instrument pursuant to former section 21350 incurs attorney fees regardless of whether the putative beneficiary is disqualified because of his or her status as a drafter, relative or colleague of the drafter, transcriber, relative or colleague of the transcriber, care custodian, or relative or colleague of the care custodian. (See *id.*, subd. (a)(1)-(7).) Despite proof Stacey drafted the will, multiple days of trial testimony were devoted to litigating whether she was exempt from the presumption of invalidity as a cohabitant of the transferor. It is difficult to imagine the

Legislature intended to impose liability for attorney fees against six out of seven categories of disqualified persons, yet allow what it viewed as the most culpable group of individuals to evade the same consequence. (See *Jenkins v. Teegarden* (2014) 230 Cal.App.4th 1128, 1142 ["The Legislature was concerned about abuses by drafters, and particularly by attorney drafters"].)

As originally enacted, the presumption of fraud and/or undue influence in former section 21351, subdivision (d) was not conclusive as to the drafter of a donative instrument. (Stats. 1993, ch. 293, § 8.) It was clear from the statutory language that a disqualified drafter *was* subject to liability for attorney fees. (*Ibid*.; Stats. 1994, ch. 40 § 4.) In 1995, former subdivision (e)(B) was added to make the presumption against a drafter irrebuttable. (Stats. 1995, ch. 730, § 14; see *Rice v. Clark*, *supra*, 28 Cal.4th at pp. 97–98.) In 2002, former subdivision (e)(B) was renumbered as (e)(1). (Stats. 2002, ch. 412, § 1.) This legislative history and the wording of the current law indicate the 1995 and 2002 amendments resulted in an inadvertent ambiguity and were not intended to create an exception to the attorney fees provision for disqualified drafters. The ambiguity was eliminated with the enactment of section 21380.

Even if Stacey could prevail on her statutory interpretation argument, she overlooks the trial court's implied finding that she not only drafted the 2009 will, but also transcribed it or caused it to be transcribed. In the *Ashlock I* statement of decision, under the heading, "Does the will fail because of Probate Code [former] §21350?" the trial court identified the statute's "pertinent" provisions and quoted subdivision (a)(4) of former section 21350: "Any person who has a fiduciary relationship with the transferor, including, but not limited to, a conservator or trustee, who transcribes the instrument or causes it to be transcribed."

The trial court found Stacey had a confidential relationship with Lonnie based in part on "the fact that [he] gave [her] a power of attorney in 2005 that remained effective until his death in 2013." Accordingly, the interim judgment concludes she "owed a

fiduciary duty to [Lonnie] at the time of his execution of the 2009 Will." The court noted Stacey's burden to refute the presumption of undue influence, found she had "failed to present any exculpatory evidence" in that regard, and thus concluded the 2009 will was the product of her undue influence.

Stacey recognized the implied finding in her opening brief in *Ashlock I*. She argued, "The only basis upon which a fiduciary duty could be inferred was the fact that Stacey held Lonni's Power of Attorney. However, Stacey did not use the Power of Attorney in connection with the 2009 Will …." In essence, she claimed one must act in a fiduciary capacity while transcribing a donative instrument or causing it to be transcribed in order to be disqualified under former section 21350, subdivision (a)(4). A similar argument was rejected in *Estate of Shinkle* (2002) 97 Cal.App.4th 990, wherein a long-term-care ombudsman was found to qualify as a care custodian for purposes of former sections 21350, subdivision (a)(6), and 21351, subdivision (d). (*Estate of Shinkle*, at pp. 1005–1007.) The *Shinkle* opinion notes "[t]here is no limiting language in [the applicable provisions] which distinguishes between activity undertaken by ombudsmen in their role as ombudsmen and activities undertaken by ombudsmen, vis-à-vis the population they serve, on their own time or outside their role as ombudsmen. If we were to permit different rules to apply, depending upon whether an ombudsman was acting within or outside of his or her role as ombudsman, we would invite just the kind of abuse that occurred in this case." (*Id*. at p. 1007; accord, *Conservatorship of McDowell* (2004) 125 Cal.App.4th 659, 670–671.)[4]

"[T]ranscribing is the act that follows the composition of the document and reduces the creation to its final, written form." (*Estate of Swetmann* (2000) 85 Cal.App.4th 807, 819.) Stacey's own testimony discussed downloading a "blank will form" from the Internet, filling in the material provisions, and printing out the pages. The

[4] *Estate of Shinkle* and *Conservatorship of McDowell* were disapproved of in *Bernard v. Foley*, *supra*, 39 Cal.4th 794, 816, footnote 14, but only "to the extent they interpreted [former] section 21350 as allowing for a preexisting personal friendship exception."

fiduciary relationship with Lonnie by virtue of her power of attorney is indisputable. Therefore, substantial evidence supports the implied finding she transcribed the 2009 will. This means she is culpable under former section 21350, subdivision (a)(4). Having failed to rebut the presumption of undue influence, she must "bear all costs of the proceeding, including reasonable attorney's fees." (Former § 21351, subd. (d).)

C. Accountings

Section 17200 authorizes petitions concerning the internal affairs of a trust and to determine the existence of a trust. (*Id*., subd. (a).) Gabriel's petition requested "full and complete accountings" of the assets in the 2013 trusts and of Stacey's actions under her power of attorney from 2005 onward. The trial court issued a pretrial accounting order and later required further accountings when Stacey's submissions were deemed inadequate. Days 10 through 16 of trial were designated as the first accounting phase of the case, and days 41 through 53 were exclusively devoted to accounting issues. In *Ashlock I*, we held the accounting orders were authorized by law and rejected Stacey's arguments to the contrary.

Gabriel relies on section 17211, which authorizes the recovery of attorney fees if "a beneficiary contests the trustee's account and the court determines that the trustee's opposition to the contest was without reasonable cause and in bad faith." (*Id*., subd. (b).) His theory is apparently based on Stacey's status as a putative trustee prior to the interim judgment. Because section 17211 is a remedial statute, it "'"must be liberally construed 'to effectuate its object and purpose, and to suppress the mischief at which it is directed.' [Citations.]"' [Citations.]" (*Leader v. Cords* (2010) 182 Cal.App.4th 1588, 1598.)

Stacey responds with these arguments: "First, the trial court did not cite this code section when awarding attorney fees. Second, … the court ordered Stacey to perform a *Power of Attorney* accounting and Gabriel contested the *Power of Attorney* accounting. Therefore, the code section does not apply to this situation. Even if it did, the trial court

never determined 'that [Stacey's] opposition to the contest was without reasonable cause and in bad faith.' [§ 17211, subd. (b).]"

The standard of review requires indulgence of all reasonable inferences supporting the fee award. (*Ketchum*, *supra*, 24 Cal.4th at p. 1140.) The interim judgment found Gabriel was "entitled to his attorneys fees and costs as provided by law," so Stacey's first argument is not persuasive. Her second argument ignores the trial court's separate order for accountings of "all activities/transactions taken pursuant to the 'partnerships.'" In the so-called partnership accountings, Stacey claimed partial ownership of the trust assets based on the existence of partnerships between her and Gabriel's father.

At trial, Stacey insisted her accountings concerned the alleged partnerships, not her power of attorney. On January 12, 2016, she filed a reply to Gabriel's objections to her most recent accounting. The document states, in pertinent part, "the accounting rendered by [Stacey] is not a 'power of attorney' accounting. Although [she] held Lonni Ashlock's power of attorney, it was expressly utilized only very sparingly, mostly in connection with the execution of deeds and other documents, and was not used in connection with the monetary transactions reflected in the accounting…. Most of the actions reflected in the accounting deal with [her] actions as a partner of Lonni Ashlock and not as the holder of his power of attorney."

Attorney Crabtree made similar representations a year earlier, on day 10 of the trial: "First of all, even though this is called a power of attorney accounting, it really isn't. There is nothing in this accounting that was done under the auspices of the power of attorney. … It's an accounting for partnership funds and funds over which [Stacey] had signing power, some of her own funds, some of [Lonnie]'s funds. It has nothing to do with power of attorney. It had to do with running a business …."

The trial court found "fraud in the setting up of the 'partnerships'" and concluded the alleged partnerships "were a sham." Given these findings, Stacey's third argument is also unpersuasive. In any event, the award in connection with the accountings would be

justified under these principles: "Attorney's fees need not be apportioned when incurred for representation on an issue common to both a cause of action in which fees are proper and one in which they are not allowed." (*Reynolds Metals Co. v. Alperson* (1979) 25 Cal.3d 124, 129–130; accord, *Amtower v. Photon Dynamics, Inc*. (2008) 158 Cal.App.4th 1582, 1604 ["Where fees are authorized for some causes of action in a complaint but not for others, allocation is a matter within the trial court's discretion"].) "Further, '[a]pportionment is not required when the claims for relief are so intertwined that it would be impracticable, if not impossible, to separate the attorney's time into compensable and noncompensable units.' [Citations.]" (*Maxim Crane Works, L.P. v. Tilbury Constructors* (2012) 208 Cal.App.4th 286, 298; accord, *Fed-Mart Corp. v. Pell Enterprises, Inc*. (1980) 111 Cal.App.3d 215, 227.)

Stacey argues the issues "were not so intertwined that attorney fees incurred litigating the other, non-attorney fees, issues could not be separated." This argument seems predicated upon her claim the partnership issues were outside the scope of the trust petition and should not have been litigated. We held otherwise in *Ashlock I*.

Although days 10 through 16 of trial were ostensibly part of the accounting phase, the testimony in those proceedings was essential to determining whether the trust assets constituted partnership property or belonged to the estate. The trial court described the testimony of Ronald Koftinow, which was given on days 14 and 15, as "some of the most important evidence in the case" because it refuted Stacey's partnership defense. Testimony by other witnesses during this period, including Stacey, was further relevant to the issue of cohabitation. The accounting proceedings on days 41 through 53, which often focused on Investwest Properties, the Snelling Ranch, and Lonnie's residential real estate, were relevant to the issue of surcharges and other damages recoverable under the trust petition. The record supports an implied finding that the accounting phases were sufficiently intertwined with other aspects of the litigation to justify awarding attorney fees for the entire trial.

IV. Admissibility of Billing Records

Stacey alleges the fee award should have been limited to work performed by Gabriel's trial counsel. She does not deny the law allows for recovery of fees attributable to paralegals, law clerks, and other attorneys, but argues Gabriel failed to substantiate his claim for such fees. Referencing a declaration and exhibit filed by attorney Broderick-Villa, Stacey asserts he "lacked personal knowledge regarding [his colleagues'] time entries[,] which rendered all their time entries inadmissible hearsay." Neither party seems to realize the dispositive issue is the admissibility of the exhibit under the business records exception to the hearsay rule.

A. Background

In Broderick-Villa's declaration, he attested to having "personal knowledge of the matters set forth [t]herein." He further declared, "I have reviewed the time records for CURTIS LEGAL GROUP, a professional law corporation, pertaining to this matter and include the breakdown for the time spent set forth on EXHIBIT C, attached hereto." The referenced exhibit is a 42-page document bearing the heading, "Detail Fee Transaction File List [¶] Curtis Legal Group A Professional Law Corporation." Underneath the heading is a reference key listing eight individuals by first name, last name, and three-letter initials. Each person's job description ("Attorney," "Law Clerk," or "Paralegal") and hourly billing rates are specified.

The bulk of the document is a six-column table itemizing the law firm's work on Gabriel's case from October 12, 2013, through October 31, 2016. The column headings are labeled "Date," "Tmkr," "Rate," "Hours," "Amount," and "Description." Most entries describe the work of Broderick-Villa, whose timekeeper abbreviation is "WBV." For example, a row on the first page reads: "11/19/2013[;] WBV[;] $225[;] 1.1[;] $247.50[;] Review of notice from Stacey Carlson. Preparation of 16061 request letter. Further telephone conference with Gabriel regarding same, followed by confirming electronic communication and memorandum to file regarding same." Billing entries for paralegals, a law clerk, and other attorneys are displayed in the same format.

B. Analysis

Gabriel chastises Stacey for not citing any authority on this issue in her opening brief. In the next sentence of his own brief, he fails to provide authority for the proposition that "an attorney declaration is sufficient to support a motion for attorneys' fees." Stacey does offer a parenthetical citation to Evidence Code section 1200 in her opening brief. Her reply brief contains a citation to Evidence Code sections 702 and 1200.[5] The reply also cites *Mardirossian & Associates, Inc. v. Ersoff* (2007) 153 Cal.App.4th 257, 269 (*Mardirossian*), which was an appeal based on the *absence* of billing records (*id.* at pp. 269–270), and "*Muniz v. United Parcel Service* (9th Cir. 2013) 739 F.3d 214, 223)." The latter citation actually corresponds to parts of *United States v. St. Junius* (5th Cir. 2013) 739 F.3d 193 and *In re Energytec, Inc.* (5th Cir. 2013) 739 F.3d 215; neither appears germane to this discussion.

Despite less than exemplary briefing by both parties, the issue is straightforward. Stacey argues Broderick-Villa lacked personal knowledge of certain billing information set forth in a document. If his personal knowledge of the information was not required, her claim fails.

"'An attorney's testimony as to the number of hours worked is sufficient evidence to support an award of attorney fees, even in the absence of detailed time records.' [Citations.] Of course, the attorney's testimony must be based on the attorney's personal knowledge of the time spent and fees incurred. [Citation.]" (*Mardirossian, supra,* 153 Cal.App.4th at p. 269.) Technically, Broderick-Villa did not attest to the number of

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[5]Evidence Code section 1200 is the hearsay rule. (*Id.*, subd. (c).) "'Hearsay evidence' is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter stated." (*Id.*, subd. (a).) "Except as provided by law, hearsay evidence is inadmissible." (*Id.*, subd. (b).)

Evidence Code section 702 provides: "(a) Subject to [Evidence Code] Section 801, the testimony of a witness concerning a particular matter is inadmissible unless he has personal knowledge of the matter. Against the objection of a party, such personal knowledge must be shown before the witness may testify concerning the matter. [¶] (b) A witness' personal knowledge of a matter may be shown by any otherwise admissible evidence, including his own testimony."

hours he or anyone else worked on the case. He furnished detailed time records in lieu of such testimony. The only explanation for the trial court's award is its admission of those records under a hearsay exception.

> "Codified by [Evidence Code] section 1271, the business records exception to the hearsay rule permits admission of hearsay to prove an act, condition, or event if the following foundational requirements are met: '(a) The writing was made in the regular course of a business; [¶] (b) The writing was made at or near the time of the act, condition, or event; [¶] (c) The custodian or other qualified witness testifies to its identity and the mode of its preparation; and [¶] (d) The sources of information and method and time of preparation were such as to indicate its trustworthiness.' [Citations.]" (*People v. McVey* (2018) 24 Cal.App.5th 405, 414.)

It was Gabriel's burden to establish each of these requirements. (*Ibid*.) However, "[t]he trial court is vested with broad discretion to determine whether a party has laid a proper foundation for admission of records under Evidence Code section 1271, and the court's exercise of that discretion '"will not be disturbed on appeal absent a showing of abuse."'" (*Ibid.*; accord, *People v. Beeler* (1995) 9 Cal.4th 953, 978–979.)

"The object of Evidence Code section 1271 is to eliminate the calling of each witness involved in preparation of the record and substitute the record of the transaction instead." (*County of Sonoma v. Grant W*. (1986) 187 Cal.App.3d 1439, 1451.) In *People v. Dorsey* (1974) 43 Cal.App.3d 953, this district noted "that the foundation requirements may be inferred from the circumstances." (*Id*. at p. 961.) "Indeed, it is presumed in the preparation of the records not only that the regular course of business is followed but that the books and papers of the business truly reflect the facts set forth in the records brought to court." (*Ibid*.) The "qualified witness" who provides the requisite foundation (see Evid. Code, § 1271, subd. (c)) "need not have been present at every transaction to establish the business records exception; he or she need only be familiar with the procedures followed …." (*Jazayeri v. Mao* (2009) 174 Cal.App.4th 301, 322.)

Stacey's lone assertion of error is Broderick-Villa's lack of personal knowledge of the work performed by other members of his law firm. Because evidence of his

colleagues' work was presented in the form of a business record, personal knowledge of the events recorded in the document was not required. (*Jazayeri v. Mao*, *supra*, 174 Cal.App.4th at p. 322; *County of Sonoma v. Grant W.*, *supra*, 187 Cal.App.3d at p. 1451.) Therefore, her objection was misguided and provides no basis for reversal on appeal. Stacey did not challenge the admissibility of the evidence as a business record and does not address Evidence Code section 1271 on appeal, so we may treat the issue as forfeited. (See *Perez v. Grajales* (2008) 169 Cal.App.4th 580, 591–592 [claims that could have been presented to trial court but were not are generally deemed forfeited].)

Forfeiture aside, the document in question has every indicia of time-tracking billing software used by law firms to record daily time entries of attorneys and support staff. The technology is ubiquitous. Viewed in the light most favorable to the ruling, Broderick-Villa's sworn statements are reasonably interpreted to mean the 42-page printout is a business record of his law firm. The nature of the document is self-evident to any modern practitioner, and Broderick-Villa's familiarity with the underlying mode of preparation is obvious since the vast majority of the time entries are his own.

Stacey does not contest the document's admissibility as to Broderick-Villa's time entries. Yet if the document satisfies Evidence Code section 1271 for purposes of his entries, the same is true with regard to those of his colleagues. Because the trial court had broad discretion to infer the foundational requirements from the surrounding circumstances, it is appropriate to uphold its implied finding of admissibility under the business records exception. This is not to say Broderick-Villa's declaration is undeserving of criticism. The foundational issue is a close one, but the trial court's exercise of discretion "'can be overturned only upon a clear showing of abuse'" (*People v. Beeler*, *supra*, 9 Cal.4th at p. 979), which has not been established. Apart from the foundational aspects, the evidence is clearly sufficient to support the recovery of fees for work performed by other members of Broderick-Villa's law firm.

V. Amount of Recoverable Fees

A. Applicable Law

"With respect to the *amount* of fees awarded, there is no question our review must be highly deferential to the views of the trial court. [Citation.] As our high court has repeatedly stated, '"'[t]he "experienced trial judge is the best judge of the value of professional services rendered in his [or her] court, and while his judgment is of course subject to review, it will not be disturbed unless the appellate court is convinced that it is clearly wrong"—meaning that it abused its discretion.'"' [Citation.]" (*Children's Hospital & Medical Center v. Bontá* (2002) 97 Cal.App.4th 740, 777.)

The determination of recoverable fees "begins with the 'lodestar,' i.e., the number of hours reasonably expended multiplied by the reasonable hourly rate." (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.) "[T]he lodestar is the basic fee for comparable legal services in the community; it may be adjusted by the court based on factors including, as relevant herein, (1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, (4) the contingent nature of the fee award. [Citation.]" (*Ketchum, supra*, 24 Cal.4th at p. 1132.) A trial court's award of attorney fees "must be based on a proper utilization of the lodestar adjustment method, both to determine the lodestar figure and to analyze the factors that might justify application of a multiplier." (*Flannery v. California Highway Patrol* (1998) 61 Cal.App.4th 629, 647.)

B. Analysis

Stacey begins by blaming Gabriel for prolonging the litigation of his trust petition. In her words, "because the parties all agreed that the Trusts were void, there was no reason to try the issue. Gabriel did anyway. Therefore, all this [*sic*] attorney fees incurred during trial regarding the Trusts were unreasonable and self inflicted [*sic*]." This is revisionist history. As we discussed in *Ashlock I*, it was Stacey who refused to formally concede the invalidity of the 2013 trusts until after the 23d day of trial. Even

then, the concession was qualified. She disputed the applicability of section 21380 and asserted her partnership defense to oppose the return of 14 properties to the estate. When a tentative ruling on the trust petition was adverse to her interests, she filed a motion to reopen the evidence and also attempted to disqualify the trial judge.

Stacey heavily relies upon arguments we rejected in *Ashlock I*, namely the significance of the trust instruments being void *ab initio* and the supposed impropriety of litigating the partnership issues. Her partnership defense necessitated countless hours of additional trial testimony, and Gabriel cannot be faulted for his efforts to refute her contentions. Had she prevailed on the issue, the value of the estate would have dropped by a significant percentage.

Gabriel's employment of two attorneys is alleged to have "artificially increased the costs of litigation." We are not persuaded. The recovery of fees for the services of multiple lawyers is permissible. (See, e.g., *Golba v Dick's Sporting Goods, Inc*. (2015) 238 Cal.App.4th 1251, 1270–1271 [affirming award based on 44.8 hours billed by one attorney at $460 per hour and 36.9 hours by another attorney at $425 per hour].) Fee awards are subject to reversal for "'unjustified duplication of work,'" e.g., if multiple attorneys passively appear on behalf of a single client (*Donahue v. Donahue* (2010) 182 Cal.App.4th 259, 271), but Stacey makes no such showing. Gabriel's moving papers explained the advantages of having two attorneys with different skill sets working side-by-side throughout the case, and we have no reason to question the trial court's acceptance of the argument.

On a related point, Stacey opines her attorney's hourly rate of $400 should "set the ceiling for the hourly rates chargeable in this jurisdiction" because of his five decades of experience. Since Broderick-Villa was a comparatively unseasoned practitioner who "had to associate with outside counsel," Stacey claims his hourly rates of $225 to $275 were "far too high." She continues: "His fees should actually be reduced to zero because Mr. Schofield was more than experienced enough to handle this entire case on his own."

Stacey's disparagement of Broderick-Villa warrants little discussion. "'The value of legal services performed in a case is a matter in which the trial court has its own expertise.'" (*PLCM Group, Inc. v. Drexler, supra*, 22 Cal.4th at p. 1096.) Nothing in the record causes us to doubt the trial court's assessment of the legal services it observed first-hand over several years. Stacey's emphasis on "the fact that [she] only used one law office" is a weak argument, especially considering it was Gabriel who prevailed at trial.

As for the multiplier, Gabriel's moving papers discussed 11 factors supporting an enhancement of the lodestar, including his contingent fee arrangement with counsel, the novelty and difficulty of the case, and the litigation's preclusive effect in terms of counsel's ability to take on other work. We need only discuss the factor upon which the trial court expressly relied, which is the complexity of the case. (See *Kern River Public Access Com. v. City of Bakersfield* (1985) 170 Cal.App.3d 1205, 1228–1229 [upholding 1.5 multiplier based on complexity].) "There are numerous such factors, and their evaluation is entrusted to a trial court's sound discretion; any one of those factors may be responsible for enhancing or reducing the lodestar." (*Krumme v. Mercury Ins. Co*. (2004) 123 Cal.App.4th 924, 947.)

Stacey takes a hard line on this issue. She argues, "The case was in no way complex.… [¶] … [¶] This case did not present novel issues, nor were the issues complex. If it was not for the conduct of Gabriel's attorneys, this would have, and should have, been a run of the mill probate case to determine whether a will was valid. After all, everyone agreed that the trusts were not valid."

Our 88-page opinion in *Ashlock I* provides a synopsis of what we described as "complex factual and legal disputes" in this case. In the interest of efficiency, we incorporate by reference our prior summary and analysis of those issues. The will contest and trust petition were multifaceted. With millions of dollars at stake, Gabriel understandably presented every possible theory to support his claims. Stacey and her attorney fought him at every turn, injecting unusual (and likely unforeseeable) issues into

the case, e.g., the partnership defense, which entailed disputes over the authenticity of documents and a virtual mini-trial on matters concerning Investwest Properties and the Snelling Ranch. Given the objective complexity and hard-fought nature of the litigation, the trial court's decision to apply a 1.5 multiplier is unremarkable, and we are by no means convinced it was clearly wrong. (See, e.g., *Pellegrino v. Robert Half Internat., Inc*. (2010) 182 Cal.App.4th 278, 291–293 [multiplier of 1.75 upheld in a "vigorously litigated" contingency fee case involving "complex issues of employment law" and a 17-day bench trial]; *Bernardi v. County of Monterey* (2008) 167 Cal.App.4th 1379, 1399 [trial court's "modest multiplier of 1.25" justified by contingent risk, delay in obtaining payment, and "unique issues"]; cf. *Northwest Energetic Services, LLC v. California Franchise Tax Bd*. (2008) 159 Cal.App.4th 841, 882 [no apparent justification for unexplained multiplier of 15.9]; *Gorman v. Tassajara Development Corp*. (2009) 178 Cal.App.4th 44, 101 [unexplained reduction of lodestar; appellate court "unable to surmise any mathematical or logical explanation for the trial court's award," which appeared "to have been snatched whimsically from thin air"].)

DISPOSITION

The order on the motion for attorney fees is affirmed. Respondent shall recover costs on appeal.

_____
PEÑA, Acting P.J.

WE CONCUR:

_____
SMITH, J.

_____
DESANTOS, J.